

## HOUSE BILL NO. 520

INTRODUCED BY M. REINHART

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRITERIA FOR LOCAL GOVERNMENT SUBDIVISION REVIEW TO INCLUDE AGRICULTURAL SOIL TYPE; AND AMENDING SECTION 76-3-608, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-3-608, MCA, is amended to read:

**"76-3-608. Criteria for local government review.** (1) The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services.

(2) The governing body shall issue written findings of fact that weigh the criteria in subsection (3), as applicable.

(3) A subdivision proposal must undergo review for the following primary criteria:

(a) except when the governing body has established an exemption pursuant to subsection (6) of this section or except as provided in 76-3-509, 76-3-609(2) or (4), or 76-3-616, the impact on:

(i) agriculture, including soil types;

(ii) agricultural water user facilities;

(iii) local services;

(iv) the natural environment;

(v) wildlife and wildlife habitat; and

(vi) public health and safety;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

1 (iii) the local subdivision review procedure provided for in this part;

2 (c) the provision of easements for the location and installation of any planned utilities; and

3 (d) the provision of legal and physical access to each parcel within the proposed subdivision and the  
4 required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

5 (4) The governing body may require the subdivider to design the proposed subdivision to reasonably  
6 minimize potentially significant adverse impacts identified through the review required under subsection (3). The  
7 governing body shall issue written findings to justify the reasonable mitigation required under this subsection (4).

8 (5) (a) In reviewing a proposed subdivision under subsection (3) and when requiring mitigation under  
9 subsection (4), a governing body may not unreasonably restrict a landowner's ability to develop land, but it is  
10 recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and  
11 will preclude approval of the subdivision.

12 (b) When requiring mitigation under subsection (4), a governing body shall consult with the subdivider  
13 and shall give due weight and consideration to the expressed preference of the subdivider.

14 (6) The governing body may exempt proposed subdivisions that are entirely within the boundaries of  
15 designated geographic areas from the review criteria in subsection (3)(a) if all of the following requirements have  
16 been met:

17 (a) the governing body has adopted a growth policy pursuant to chapter 1 that:

18 (i) addresses the criteria in subsection (3)(a);

19 (ii) evaluates the impact of development on the criteria in subsection (3)(a);

20 (iii) describes zoning regulations that will be implemented to address the criteria in subsection (3)(a); and

21 (iv) identifies one or more geographic areas where the governing body intends to authorize an exemption  
22 from review of the criteria in subsection (3)(a); and

23 (b) the governing body has adopted zoning regulations pursuant to chapter 2, part 2 or 3, that:

24 (i) apply to the entire area subject to the exemption; and

25 (ii) address the criteria in subsection (3)(a), as described in the growth policy.

26 (7) A governing body may conditionally approve or deny a proposed subdivision as a result of the water  
27 and sanitation information provided pursuant to 76-3-622 or public comment received pursuant to 76-3-604 on  
28 the information provided pursuant to 76-3-622 only if the conditional approval or denial is based on existing  
29 subdivision, zoning, or other regulations that the governing body has the authority to enforce."

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